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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

PATEL, AJIT

ART UNIT

PAPER NUMBER

2664

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 09/407,008 | Applicant(s) JENSEN ET AL | |
| | Examiner AJIT G. PATEL | Art Unit 2664 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 70-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 70-80 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claim 77 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: each time slot comprises a first time segment and a second time segment.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 70-80 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,5,8,11-15 of U.S. Patent No. 6,005,856. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the instant application are broader than the claims in the patent. The following is the comparison.

Regarding claim 1, a transceiver adapted to transmit and receive spread spectrum signals is the same as transmitting ---of said slots and receiving --- at said user station recited in claims 1 and 8; wherein device is adapted to transmit a user signal during a first time segment of a first time slot of a polling time cycle is the same

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as defining a series of polling cycle ---time slots recited in claims 1,8; the polling loop time cycle is comprised of a plurality of time slots and each time slot comprises a first time segment and a second time segment is the same as each time slot --- segment recited in lines 58-60 of claim 1 and lines 1-2 of claim 8; wherein the wireless device --- second time slot is the same as transmitting --- time slots recited in lines 66-68, col. 22, line 1, col. 23 of claim 1; lines 10-16, col. 24 of claim 8; wherein the number --- is variable is the same as lines 2-4, col. 23 of claim 1 and lines 12-14, col. 24 of claim 8.

Regarding claims 71-72, the polling loop time cycle is followed by a second loop time cycle and each of the plurality of time slots has the same duration and would have been obvious to one skilled in the art.

Regarding claims 73, the recitation of each of the plurality of time slots further comprises a guard interval is well known in the art to reduce minimize the interference between the channels.

Regarding claim 74, the recitation wherein the user signal comprises a user preamble and a user sounding gap is well known in the art.

Regarding claims 75,76, see the limitations recited in claims 12 and 13.

Regarding claim 77, a transceiver adapted --- a plurality of time slots is the same as the limitations recited in lines 7-14 of claim 8; wherein at least one of the spread spectrum signals to be transmitted comprises a general polling signal in a segment of a time slot and at least one of the spread spectrum signals to be received comprises a general polling response signal from one or more user stations in a different segment of an available time slot is the same limitation recited in lines 66-67, col. 23, lines 1-9, col.

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24 of claim 8; a processing circuit --- subsequent transmission is the same as recited in claim 11.

Regarding claims 78, the limitation is same as recited in claims 12-13.

Regarding claim 79, the limitation recited is well known in the art.

Regarding claim 80, it would have been obvious to one skilled in the art to use ID for identify the user.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY-THURSDAY.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AP


Ajit Patel
Primary Examiner